

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

**IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING, SALES
PRACTICES, AND PRODUCTS LIABILITY
LITIGATION**

CHARLES HAUER, Individually and as Personal
Representative of the ESTATE OF SHELVA
HAUER, deceased,

Plaintiffs,

v.

JOHNSON & JOHNSON and JOHNSON &
JOHNSON CONSUMER INC.,

Defendants.

**MDL No. 2738 (FLW) (LHG)
JUDGE FREDA L. WOLFSON
MAG. JUDGE LOIS H. GOODMAN**

COMPLAINT AND JURY DEMAND

Civil Action No: 24-cv-5758

DIRECT FILED ACTION

SHORT FORM COMPLAINT AND JURY DEMAND

The Plaintiff(s) named below files this *Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through the undersigned counsel. Plaintiff incorporates by reference the allegations contained in *Plaintiffs' Master Long Form Complaint* in *In re: Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2738 in the United States District Court for the District of New Jersey. Plaintiff files this Short Form Complaint as permitted by Case Management Order No. 1 of this Court.

In addition to those causes of action contained in *Plaintiffs' Master Long Form Complaint*, where certain claims require specific pleadings and/or amendments, Plaintiffs shall add and include them herein.

IDENTIFICATION OF PARTIES

Identification of Plaintiffs:

1. Name of individual injured due to the use of talcum powder product(s): Shelva Hauer.
2. At the time of the filing of the specific case, Plaintiff, Charles Hauer, is currently residing in Salisbury, Somerset County, Pennsylvania.
3. Consortium Claim: The following individual alleges damages for loss of consortium: Charles Hauer.
4. Survival and/or Wrongful Death Claims: Name and residence of Decedent Plaintiff when she suffered the talcum powder product(s) related death: Shelva Hauer, 139 Grant Street, Salisbury, Somerset County, Pennsylvania.
5. Plaintiff/Decedent was born in 1948 and died in 2022.
6. Plaintiff, Charles Hauer is filing this case in a representative capacity.
7. As a result of using talcum powder products, Plaintiff/Decedent, Shelva Hauer, suffered personal and economic injuries that are alleged to have been caused by the use of the products identified in Paragraph 16 below, but not limited to, the following:
 - ✓ injury to herself
 - ✓ injury to the person represented
 - ✓ wrongful death
 - ✓ survivorship action
 - ✓ economic loss
 - ✓ loss of services
 - ✓ loss of consortium

_____ other: _____

Identification of Defendants:

8. Plaintiff/Decedent are suing the following Defendants (please check all that apply):

- ✓ Johnson & Johnson
- ✓ Johnson & Johnson Consumer Inc.

Additional Defendants:

- ✓ Other(s) Defendant(s) (please specify): LLT Management LLC f/k/a LTL Management, LLC., Johnson & Johnson Holdco (NA) Inc., Janssen Pharmaceuticals, Inc., and Kenvue, Inc.

JURISDICTION & VENUE

Jurisdiction:

9. Jurisdiction in this Short Form Complaint is based on:

- ✓ Diversity of Citizenship

_____ Other (The basis of any additional ground for jurisdiction must be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure): _____

Venue:

10. District Court and Division in which venue was proper where you might have otherwise filed this Short Form Complaint absent the direct filing Order entered by this Court and to where remand could be ordered by the Judicial Panel for trial: U.S. District Court for the Western District of Pennsylvania.

CASE SPECIFIC FACTS

11. Plaintiff, Charles Hauer, currently resides at 135 Grant Street, Salisbury, Somerset County, Pennsylvania.

12. At the time of the Plaintiff/Decedent's diagnosis with a talcum powder products injury, Plaintiff/Decedent resided in Salisbury, Somerset County, Pennsylvania.

13. The Plaintiff/Decedent was diagnosed with a talcum powder products injury in Johnstown, Pennsylvania on or about December 2020.

14. To the best of Plaintiff's knowledge, Decedent began using talcum powder products on or about 1948 and continued the use of talcum powder products through 2022.

15. The Plaintiff/Decedent purchased talcum powder products in the following state(s): Pennsylvania.

16. Plaintiff/Decedent used the following talcum powder products:

- ✓ Johnson & Johnson's Baby Powder
- ☐ Shower to Shower

17. Plaintiffs hereby adopt and incorporate by reference the *Master Long Form Complaint and Jury Demand* as if fully set forth herein.

18. The following claims and allegations asserted in the *Master Long Form Complaint and Jury Demand* are herein adopted by reference by Plaintiff:

- _____ Count I: Products Liability – Strict Liability – Failure to Warn (Against Imerys Talc)
- ✓ Count II: Products Liability – Strict Liability – Failure to Warn (Against the Johnson & Johnson Defendants)
- _____ Count III: Products Liability – Strict Liability – Defective Manufacturer and Design (Against Imerys Talc)
- ✓ Count IV: Products Liability – Defective Manufacturer and Design (Against the Johnson & Johnson Defendants)
- ✓ Count V: Breach of Express Warranties (Against the Johnson & Johnson Defendants)

- ✓ Count VI: Breach of Implied Warranty of Merchantability (Against the Johnson & Johnson Defendants)
- ✓ Count VII: Breach of Implied Warranty of Fitness for a Particular Purpose (Against the Johnson & Johnson Defendants)
- ____ Count VIII: Negligence (Against Imerys Talc)
- ✓ Count IX: Negligence (Against the Johnson & Johnson Defendants)
- ✓ Count X: Negligence (Against PCPC)
- ✓ Count XI: Negligence Misrepresentation (Against the Johnson & Johnson Defendants)
- ✓ Count XII: Fraud (Against the Johnson & Johnson Defendants)
- ✓ Count XIII: Fraud (Against PCPC)
- ✓ Count XIV: Violation of State Consumer Protection Laws of the State of New York and Florida (Against the Johnson & Johnson Defendants).
- ____ Count XV: Fraudulent Concealment (Against Imerys Talc)
- ✓ Count XVI: Fraudulent Concealment (Against the Johnson & Johnson Defendants)
- ____ Count XVII: Fraudulent Concealment (Against PCPC)
- ✓ Count XVIII: Civil Conspiracy (Against All Defendants)
- ✓ ____ Count XIX: Loss of Consortium (Against All Defendants)
- ✓ Count XX: Punitive Damages (Against All Defendants)
- ✓ Count XXI: Discovery Rule and Tolling (Against All Defendants)
- ✓ Count XXII: Wrongful Death (Against All Defendants)
- ✓ Count XXIII: Survival Action (Against All Defendants)

____ Furthermore, Plaintiff(s) assert the following additional theories and/or State Causes of Action against Defendant(s) identified in Paragraph nine (9) above. If Plaintiff(s) include additional theories of recovery, to the extent they require specificity in pleadings,

the specific facts and allegations supporting these theories must be pled by Plaintiff(s) in a manner complying with the requirements of the Federal Rules of Civil Procedure.

WHEREFORE, Plaintiffs pray for relief and judgment against Defendants of compensatory damages, punitive damages, interest, costs of suit, and such further relief as the Court deems equitable and just, and as set forth in the Master Long Form Complaint as appropriate.

JURY DEMAND

Plaintiffs hereby demand a trial by jury as to all claims in this action.

Dated: May 1, 2024

Respectfully submitted:



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Counsel for Plaintiffs

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CHARLES HAUER, Individually and as Personal Representative of the ESTATE OF SHELVA HAUER, deceased

(b) County of Residence of First Listed Plaintiff Salisbury, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Morgan & Morgan, Complex Litigation Group, One Tampa City Center, 7th Floor, 201 N Franklin St., Tampa, FL 33602, (813-223-5505)

DEFENDANTS
Johnson & Johnson, and Johnson & Johnson Consumer Inc.,

County of Residence of First Listed Defendant Middlesex
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

☐ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

☐ 3 Federal Question *(U.S. Government Not a Party)*

☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT

☐ 110 Insurance

☐ 120 Marine

☐ 130 Miller Act

☐ 140 Negotiable Instrument

☐ 150 Recovery of Overpayment & Enforcement of Judgment

☐ 151 Medicare Act

☐ 152 Recovery of Defaulted Student Loans *(Excludes Veterans)*

☐ 153 Recovery of Overpayment of Veteran's Benefits

☐ 160 Stockholders' Suits

☐ 190 Other Contract

☐ 195 Contract Product Liability

☐ 196 Franchise

TORTS

PERSONAL INJURY

☐ 310 Airplane

☐ 315 Airplane Product Liability

☐ 320 Assault, Libel & Slander

☐ 330 Federal Employers' Liability

☐ 340 Marine

☐ 345 Marine Product Liability

☐ 350 Motor Vehicle

☐ 355 Motor Vehicle Product Liability

☐ 360 Other Personal Injury

☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY

☐ 365 Personal Injury - Product Liability

☒ 367 Health Care/Pharmaceutical Personal Injury Product Liability

☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY

☐ 370 Other Fraud

☐ 371 Truth in Lending

☐ 380 Other Personal Property Damage

☐ 385 Property Damage Product Liability

REAL PROPERTY

☐ 210 Land Condemnation

☐ 220 Foreclosure

☐ 230 Rent Lease & Ejectment

☐ 240 Torts to Land

☐ 245 Tort Product Liability

☐ 290 All Other Real Property

CIVIL RIGHTS

☐ 440 Other Civil Rights

☐ 441 Voting

☐ 442 Employment

☐ 443 Housing/Accommodations

☐ 445 Amer. w/Disabilities - Employment

☐ 446 Amer. w/Disabilities - Other

☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:

☐ 463 Alien Detainee

☐ 510 Motions to Vacate Sentence

☐ 530 General

☐ 535 Death Penalty

Other:

☐ 540 Mandamus & Other

☐ 550 Civil Rights

☐ 555 Prison Condition

☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY

☐ 625 Drug Related Seizure of Property 21 USC 881

☐ 690 Other

LABOR

☐ 710 Fair Labor Standards Act

☐ 720 Labor/Management Relations

☐ 740 Railway Labor Act

☐ 751 Family and Medical Leave Act

☐ 790 Other Labor Litigation

☐ 791 Employee Retirement Income Security Act

IMMIGRATION

☐ 462 Naturalization Application

☐ 465 Other Immigration Actions

BANKRUPTCY

☐ 422 Appeal 28 USC 158

☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS

☐ 820 Copyrights

☐ 830 Patent

☐ 835 Patent - Abbreviated New Drug Application

☐ 840 Trademark

SOCIAL SECURITY

☐ 861 HIA (1395ff)

☐ 862 Black Lung (923)

☐ 863 DIWC/DIWW (405(g))

☐ 864 SSID Title XVI

☐ 865 RSI (405(g))

FEDERAL TAX SUITS

☐ 870 Taxes (U.S. Plaintiff or Defendant)

☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES

☐ 375 False Claims Act

☐ 376 Qui Tam (31 USC 3729(a))

☐ 400 State Reapportionment

☐ 410 Antitrust

☐ 430 Banks and Banking

☐ 450 Commerce

☐ 460 Deportation

☐ 470 Racketeer Influenced and Corrupt Organizations

☐ 480 Consumer Credit

☐ 490 Cable/Sat TV

☐ 850 Securities/Commodities/Exchange

☐ 890 Other Statutory Actions

☐ 891 Agricultural Acts

☐ 893 Environmental Matters

☐ 895 Freedom of Information Act

☐ 896 Arbitration

☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision

☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☐ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District *(specify)*

☐ 6 Multidistrict Litigation - Transfer

☒ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28:1332 pl (28:1332 Diversity-Product Liability)
Brief description of cause:
New Member Case In Re: Johnson & Johnson, et al., Products Liability Litigation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE Hon. Freda L. Wolfson

DOCKET NUMBER MDL 2738

DATE 05/01/2024

SIGNATURE OF ATTORNEY OF RECORD /s/ Michael Goetz

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____